

Attorney Docket Number: FSP0291
Application Number: 09/759,935

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REMARKS

The Applicant thanks the Examiner for examining this application. This is a response to the Office Action mailed on December 27, 2010. Claims 46-53 remain pending.

Response to Arguments

There is no teaching or suggestion in either Son or Dodson that the group ID is unique to one or more modulators. Nor is such a feature natural or obvious from the combined disclosures of Son and Dodson. Son describes a data distributor downstream of the modulators that associates the Logical Node ID with a group of subscribers. A modulator or group of modulators upstream of the information distributor is not uniquely identified by the Logical Node ID. One modulator or group of modulators can serve multiple Logical Nodes. Son specifically teaches away from the present claims, by requiring an information distributor downstream of the modulators to associate node ids with collections of subscriber terminals. By doing so Son specifically avoids a unique association of group IDs and modulators and thus gains greater flexibility to reconfigure the system topology.

The Applicant disagrees that Son teaches that the Logical Node ID can be included in all upstream messages, which would include a VOD request. There is insufficient disclosure in Son to support this assertion. Furthermore, there is no suggestion in Son for how or why the Logical Node ID would be included in a VOD request specifically.

The Applicant disagrees with the assertion that Dodson explicitly teaches Son's Logical Node id or the equivalent inserted by a STB in an upstream VOD request. The Applicant also disagrees that Dodson in view of Son would obviously suggest a system in which the subscriber terminal inserts the logical node id in a VOD request. Dodson clearly teaches an application that is incompatible with such an interpretation.

See the detailed traverse of the 35 U.S.C. §103(a) rejection, below.

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35 U.S.C. §103(a)

Claims 46-53 are rejected under 35 U.S.C. §103(a) as being unpatentable over Son, (U.S. Pat # 6,697,376) in view of Dodson, (U.S. Pat # 6,873,622).

The Supreme Court case of KSR (127 S. Ct 1742) set forth some guidelines for when obviousness may be found from combined references. If the references don't disclose all significant aspects of the claims, there must be some teaching and motivation to cause the claimed features to obviously arise from the combination of references, over other possible alternatives.

As a threshold matter, the two references do not combine to teach all the features of claim 46. Neither Son nor Dobson teach associating a unique group ID with one or more modulators. The association of Logical Nodes and modulators in Son is not unique, hence the inclusion of a data distributor downstream of the modulators. Furthermore, there is no teaching or suggestion from either reference that would obviously lead one skilled in the art to adapt a system in the claimed manner.

Claim 46 does not simply describe a rearrangement of elements in the cited references with each performing the same function it has been known to perform. Claim 46 recites features not disclosed nor obvious from either reference, the new features used in ways that not disclosed nor obvious from the combined references.

Son does not teach that the group ID is unique to one or more modulators. Son teaches that a group of modulators can service multiple Logical Nodes. To obtain configuration flexibility, Son describes the use of a downstream data distributor that takes a stream, applies the Logical Node ID, and directs the stream to a group of subscriber terminals associated with the Logical Node ID. The Logical Node ID does not uniquely define a group of one or more modulators. There is no teaching or motivation in either reference to dispose of Son's group association scheme and thus give up the configuration flexibility Son teaches as arising therefrom.

Son teaches that an identifier (a Logical Node id) is transmitted downstream from the headend and later sent back from the terminal, not in a VOD request, but at some other time unrelated to a VOD request. The headend uses the Logical Node ID to build a configuration database; it doesn't receive from a requesting subscriber terminal a request

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for video on demand data including a group identifier for a unique modulator group. It does not extract and recognize the group identifier from the request for video on demand.

There is no teaching or motivation provided by Dobson to obviously incorporate such features in Son because Son uses the Logical Node ID to build a database on the server, not to transmit video on demand data. The headend described in Son not only obtains the group ID from the terminal in a different way, it also uses it for a different purpose.

KSR teaches that one skilled in the art must be motivated to combine the references, and in the case of Son and Dodson, there simply is no such motivation. Son teaches that the Logical Node id is already stored by the terminal and later incorporated in upstream messages. Dodson teaches that equipment ids are inserted into upstream service requests by upstream equipment, not the terminals. These are two primarily exclusive approaches. There would be little if any benefit to combining these two approaches into a single system, and especially the benefits achieved by the system of claim 46 would not be achieved or apparent from such a combination. If the network equipment were to insert group ids into upstream service requests, there would be no motivation to incur the complexity and overhead of broadcasting node ids downstream and store them in the terminals, and vice versa. In fact, such a combination may lead to inconsistencies and inefficiencies between what is provided downstream and what is provided upstream, as the sources of the information would be entirely different.

Claims 47-49 are dependent on claim 46 and likewise patentable over the cited references. Claim 50 comprises similar features and it likewise patentable, as are the dependent claims 51-53.

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Reservation Of Rights

The Applicant believes every assertion by the Office Action has been addressed, however in the interest of clarity and brevity, applicant may not have asserted every available argument for each assertion made in the Office Action. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. §1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP §2144.03. Applicant reserves all rights to pursue any canceled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP §821.04.

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Conclusion

For at least the reasons provided, all of the claims should be allowed. If an interview would help further the prosecution, the Examiner is urged to contact the Applicant at the numbers provided below.

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